

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3
4 WILLIE CLARENCE RAY,

No. C 06-04556 SBA (PR)

5 Petitioner,

6 v.

7 SCOTT KERNAN, Warden,

8 Respondent.

**ORDER DIRECTING PETITIONER TO
FILE A NOTICE OF INTENT TO
PROSECUTE AND TO PROVIDE
COURT WITH CURRENT ADDRESS**9
10 Petitioner, a state prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28
11 U.S.C. § 2254.12 It has been almost a year since Petitioner has communicated with the Court. Petitioner filed
13 a traverse on June 19, 2007, and he has not communicated with the Court since that date. Because
14 of the length of time since Petitioner's last communication with the Court, it is unclear whether he
15 intends to continue to pursue the claims set forth in his habeas petition at this time.16 Pursuant to Federal Rule of Civil Procedure 41(b), a district court may sua sponte dismiss an
17 action for failure to prosecute or to comply with a court order. See Link v. Wabash R.R., 370 U.S.
18 626, 633 (1962); McKeever v. Block, 932 F.2d 795, 797 (9th Cir. 1991). But such a dismissal
19 should only be ordered when the failure to comply is unreasonable. See id. The court should afford
20 the litigant prior notice of its intention to dismiss. See Malone v. United States Postal Serv., 833
21 F.2d 128, 133 (9th Cir. 1987). Furthermore, pursuant to Northern District Local Rule 3-11, a party
22 proceeding pro se whose address changes while an action is pending must promptly file and serve
23 upon all opposing parties a notice of change of address specifying the new address. See L.R. 3-
24 11(a).25 Accordingly, it is in the interests of justice and judicial efficiency for the Court to establish
26 whether Petitioner intends to continue to prosecute this action. Petitioner shall file a notice of his
27 current address and his continued intent to prosecute no later than **twenty (20) days** of the date of
28

1 this Order. Failure to do so will result in the dismissal of this action without prejudice for failure to
2 prosecute under Rule 41(b) of the Federal Rules of Civil Procedure. See Malone, 833 F.2d at 133
3 (the district court should afford the litigant prior notice before dismissing for failure to prosecute).

4 IT IS SO ORDERED.

5 DATED: 6/9/08

Saundra B. Armstrong
6 SAUNDRA BROWN ARMSTRONG
7 United States District Judge

1
2 UNITED STATES DISTRICT COURT
3 FOR THE
4 NORTHERN DISTRICT OF CALIFORNIA

5 WILLIE CLARENCE RAY,

6 Plaintiff,

7 v.

8 SCOTT KERNAN et al,

9 Defendant.

Case Number: CV06-04556 SBA

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 11, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Willie C. Ray T-73523
California State Prison-Sacramento (New Folsom)
P.O. Box 29-0066
Represa, CA 95671

Dated: June 11, 2008

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk